

Message Text

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61

ACTION EB-07

INFO OCT-01 EA-07 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

 DOTE-00 INR-07 NSAE-00 FAA-00 L-03 SS-15 NSC-05 /047 W

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P 230410Z DEC 75

FM AMEMBASSY WELLINGTON

TO SECSTATE WASHDC PRIORITY 654

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E.O. 11652: N/A

TAGS: EAIR, NZ

SUBJECT: CIVAIR: PANAM'S PROBLEMS IN NEW ZEALAND

REF: A. WELLINGTON'S 3819

 B. WELLINGTON'S 3870

1. FOLLOWINGS IS TEXT OF LETTER DATED DECEMBER 22 (RECEIVED THIS DATE) TO E/C COUNSELOR FROM SECRETARY FOR TRANSPORT R.J. POLASCHEK:

"THANK YOU FOR YOUR LETTER OF DECEMBER 16, 1975 RELATING TO THE PAYMENT OF AGENTS COMMISSIONS BY YOUR DESIGNATED CARRIER AND TO THE APPLICATION OF THE NEW ZEALAND - EUROPE - NEW ZEALAND EXCURSION FARES BY THAT CARRIER.

"I ENCLOSE FOR YOUR INFORMATION A COPY OF A LETTER RECEIVED FROM PAN AMERICAN WORLD AIRWAYS DATED 16 DECEMBER 1975 RELATING TO THE ABOVE MATTERS ALONG WITH A COPY OF OUR REPLY. WE ARE PLEASED TO NOTE THAT PAN AMERICAN WORLD AIRWAYS, AFTER A DELAY OF SEVEN MONTHS, ARE PREPARED TO COMPLY WITH THE DIRECTIVE OF THE NEW ZEALAND GOVERNMENT ON AGENTS COMMISSION. YOUR ASSISTANCE IN OBTAINING THIS COMPLIANCE IS APPRECIATED.

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"WE UNDERSTAND THAT THE RELUCTANCE OF PAN AMERICAN

WORLD AIRWAYS TO APPLY THE CONDITIONS RELATING TO THE NEW EXCURSION FARE PACKAGE STEMS MAINLY FROM ITS INABILITY UNDER THAT PACKAGE TO APPLY ADDITIONAL TRANSFER POINTS IN THE UNITED STATES WHICH IT RECENTLY INCORPORATED IN ITS SCHEDULES. THIS IS ESSENTIALLY A COMMERCIAL MATTER AND WE HAVE NO OBJECTION TO SUBSEQUENT DISCUSSIONS BETWEEN PAN AMERICAN WORLD AIRWAYS AND AIR NEW ZEALAND AND BRITISH AIRWAYS ON THIS SUBJECT. NEVERTHELESS WE ARE NOT PREPARED TO MAKE A SPECIAL CONCESSION TO PAN AMERICAN WORLD AIRWAYS IN RELATION TO TRANSFER POINTS TO REMEDY A SITUATION OF THAT AIRLINE'S OWN MAKING. IT SHOULD BE NOTED THAT BY REVISING ITS SCHEDULES PAN AMERICAN WORLD AIRWAYS CAN PRESERVE ITS ACCESS TO THE MARKET WHICH SUPPLIES ITS SIXTH FREEDOM TRAFFIC.

"FOR NEW ZEALAND TO AGREE TO ANY SPECIAL CONCESSION TO PAN AMERICAN WORLD AIRWAYS WOULD BE TANTAMOUNT TO ACCEPTANCE BY THIS GOVERNMENT THAT THE LAW MAY BE BE HONOURED IN THE BREACH AND CONTINUED TO BE SO HONOURED UNTIL THE LAW IS CHANGED TO LEGTIMISE THAT BREACH. NO GOVERNMENT, INCLUDING I BELIEVE YOUR OWN, WOULD TOLERATE SUCH ABUSE OF THE LAW AND THE DISREPUTE OF THE LAW WHICH WOULD INEVITABLY ACCOMPANY THAT ABUSE.

"THE PENALTIES FOR BREACH OF AN INTERNATIONAL AIR SERVICE LICENCE ARE SPELT OUT IN THE INTERNATIONAL AIR SERVICES LICENSING ACT 1947. ALTHOUGH WE ARE RELUCTANT TO INVOKE THEM, SHOULD SUCH ACTION BE NECESSARY TO SECURE COMPLIANCE WITH THE LAW, IT IS OUR HOPE THAT XOUR GOVERNMENT WOULD SUPPORT OUR ACTION IN UPHOLDING THE LAW OF THIS COUNTRY.

"AS I HAVE SAID BEFORE, IT IS MY EARNEST HOPE THAT SUCH ENFORCEMENT ACTION WILL NOT BE NECESSARY AND THAT PAN AMERICAN WORLD AIRWAYS WILL COMPLY WITH THE REQUIREMENTS OF THE LAW. THE EFFECT OF SUCH COMPLIANCE WILL BE TO RESTORE THE HARMONY WHICH HAS EXISTED BETWEEN THE NEW ZEALAND GOVERNMENT AND PAN AMERICAN WORLD AIRWAYS."

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COMPLIMENTARY CLOSE.

2. THERE FOLLOWS THE TEXT OF MR. POLASCHEK'S REPLY (SEE PARA 2 OF POASCHEK'S LETTER TO E/C COUNSELOR) DATED DECEMBER 22 TO A LETTER HE RECEIVED FROM PAN AM'S NEW ZEALAND DIRECTOR, D.R. MORGAN, DATED DECEMBER 16:

"YOUR LETTER OF 16 DECEMBER 1975 RELATING TO AGENTS COMMISSION AND THE NEW ZEALAND - UNITED KINGDOM EXCURSION FARE PACKAGE HAS BEEN RECEIVED.

"WE ARE INDEED GRATIFIED THAT AFTER A DELAY OF SEVEN MONTHS, YOUR AIRLINE HAS FINALLY AGREED TO ABIDE BY THE TERMS OF THE NEW ZEALAND GOVERNMENT DIRECTIVE OF 2 MAY 1975. WE SHALL THEREFORE EXPECT TO RECEIVE BY RETURN MAIL A FILING IMPLEMENTING WITH IMMEDIATE EFFECT THE RATES OF COMMISSION AGREED UPON BY THE MAJORITY OF IATA CARRIERS AT THE NICE CONFERENCE IN APRIL OF THIS YEAR AND ENDORSED BY THE NEW ZEALAND GOVERNMENT. THE FILING WILL BE APPROVED ONLY IF IT IS TO TAKE IMMEDIATE EFFECT. NO PHASE IN PERIOD CAN BE PERMITTED.

"YOUR PROPOSAL TO FILE "FOR IMMEDIATE EFFECT NEW FARE LEVELS OF SPECIAL GOVERNMENT ORDERED FARES WITH PREVIOUSLY EXISTING CONDITIONS" IS AMBIGUOUS. IF YOU MEAN TO FILE THE NEW EXCURSION FARES BETWEEN NEW ZEALAND AND THE UNITED KINGDOM WITHOUT THE RELATED CONDITIONS CONTAINED IN OUR LETTER TO YOU OF 20 OCTOBER 1975 OR WITH CONDITIONS WHICH DIFFER FROM THOSE CONTAINED IN THAT LETTER, YOUR PROPOSAL IS COMPLETELY UNACCEPTABLE.

"THE NEW ZEALND GOVERNMENT WILL APPROVE A FILING WHICH CONFORMS TO THE TERMS OF OUR LETTER DATED 20 OCTOBER 1975. PAN AMERICAN IS QUITE AT LIBERTY TO NEGOTIATE SUBSEQUENTLY WITH AIR NEW ZEALAND AND BRITISH AIRWAYS FOR A MODIFICATION OF THE CONDITIONS RELATING TO THE NEW FARES BUT UNTIL SUCH TIME AS AGREEMENT IS REACHED NO MODIFICATION IN THOSE CONDITIONS WILL BE ACCEPTED BY THE NEW ZEALAND GOVERNMENT. YOUR AIRLINE'S LIMITED ACCESS TO SIXTH FREEDOM TRAFFIC UNDER THE NEW EXCURSION FARE PACKAGE IS THE DIRECT RESULT OF COMMERCIAL DECISIONS MADE BY YOUR LIMITED OFFICIAL USE

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COMPANY AND MAY BE REMEDIED BY A REARRANGEMENT OF SCHEDULES.

"THE NEW ZEALAND GOVERNMENT WILL NOT TOLERATE THE FLOUTING OF THE LAW OF THIS COUNTRY AND CONTINUED DEFIANCE WILL BE MET WITH STERN MEASURES UNDER THE LAW.

"I AWAIT YOUR EARLY REPLY."

COMPLIMENTARY CLOSE.

3. NOTE: THE FILING "BY RETURN MAIL" WHICH MR. POLASCHEK MENTIONED IN PARA 2 OF HIS LETTER TO MR. MORGAN WAS IN FACT TRANSMITTED IN PAN AM'S LETTER OF DECEMBER 19, THE TEXT OF WHICH WAS TRANSMITTED IN REF B.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CIVIL AVIATION, PUBLIC CORRESPONDENCE, AIR FARES, AIR ROUTES, LICENSES
Control Number: n/a
Copy: SINGLE
Draft Date: 23 DEC 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: MorefiRH
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975WELLIN03899
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750445-0065
From: WELLINGTON
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19751217/aaaaaosl.tel
Line Count: 169
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: MorefiRH
Review Comment: n/a
Review Content Flags:
Review Date: 29 MAY 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <29 MAY 2003 by WorrelSW>; APPROVED <07 AUG 2003 by MorefiRH>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CIVAIR: PANAM'S PROBLEMS IN NEW ZEALAND
TAGS: EAIR, NZ, PANAM
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006